

48A C.J.S. Judges § 218

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

VIII. Liabilities

A. General Considerations

§ 218. Judges and judicial officers within rule—Inferior judges

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  36

Judges of inferior courts have the same exemption from civil liability for their judicial acts as is accorded to judges of courts of record or general jurisdiction.

Although originally magistrates or judges of lower grade were held to strict accountability for their judicial acts,¹ the rule has been relaxed,² and the doctrine of judicial immunity protects judges of inferior or limited jurisdiction.³

Acting within, or in excess of, jurisdiction.

An inferior judge or a judge of a court of limited jurisdiction, while acting within his or her jurisdiction, is exempt from civil liability⁴ although the judge may have acted erroneously.⁵ An inferior judge or a judge of a court of limited jurisdiction is exempt from civil liability, although acting in excess of his or her jurisdiction, where the act is under colorable invocation of his or

her jurisdiction⁶ and even though his or her acts involve an affirmative decision that the judge has jurisdiction and he or she errs in arriving at this conclusion,⁷ especially where the judge acts in good faith.⁸

Acting wholly without jurisdiction.

Where an inferior judge or a judge of a court of limited jurisdiction acts wholly without jurisdiction, such judge is subject to civil action from any damage resulting therefrom⁹ even though the act involves the judge's decision, made in good faith, that he or she had such jurisdiction.¹⁰

Acting maliciously or corruptly.

Some decisions may be found to the effect that, if an inferior judge acts maliciously or corruptly, even though otherwise exonerated, he or she incurs liability.¹¹ Other cases, however, apply to judges of limited jurisdiction the same rules as to judges of courts of general jurisdiction, and hold that, where the circumstances are such that the inferior judge would otherwise be exempt from civil action, he or she is not liable although he or she has acted maliciously or corruptly or from other improper motive.¹²

Westlaw. © 2023 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

Footnotes

- 1 Ohio—Voll v. Steele, 141 Ohio St. 293, 25 Ohio Op. 424, 47 N.E.2d 991 (1943).
- 2 Ohio—Voll v. Steele, 141 Ohio St. 293, 25 Ohio Op. 424, 47 N.E.2d 991 (1943).
- 3 Ala.—Bahakel v. Tate, 503 So. 2d 837 (Ala. 1987).
W. Va.—Roush v. Hey, 197 W. Va. 207, 475 S.E.2d 299 (1996).
- 4 U.S.—McClain v. Brown, 587 F.2d 389 (8th Cir. 1978); McGlasker v. Calton, 397 F. Supp. 525 (M.D. Ala. 1975), aff'd, 524 F.2d 1230 (5th Cir. 1975).
Ga.—Hill v. Bartlett, 126 Ga. App. 833, 192 S.E.2d 427 (1972).
Wash.—Burgess v. Towne, 13 Wash. App. 954, 538 P.2d 559 (Div. 1 1975).
- 5 U.S.—Pierson v. Ray, 352 F.2d 213 (5th Cir. 1965), judgment aff'd in part, rev'd in part on other grounds, 386 U.S. 547, 87 S. Ct. 1213, 18 L. Ed. 2d 288 (1967).
Ga.—Hill v. Bartlett, 126 Ga. App. 833, 192 S.E.2d 427 (1972).

- 6 N.M.—Galindo v. Western States Collection Co., 82 N.M. 149, 1970-NMCA-118, 477 P.2d 325 (Ct. App. 1970).
- Cal.—Taliaferro v. Contra Costa County, 182 Cal. App. 2d 587, 6 Cal. Rptr. 231 (1st Dist. 1960).
- Conn.—Ferraiuolo v. Henchel, 21 Conn. Supp. 445, 156 A.2d 798 (Super. Ct. 1959).
- 7 Conn.—Aetna Ins. Co. v. Blumenthal, 129 Conn. 545, 29 A.2d 751 (1943).
- 8 Conn.—Aetna Ins. Co. v. Blumenthal, 129 Conn. 545, 29 A.2d 751 (1943).
- 9 N.M.—Galindo v. Western States Collection Co., 82 N.M. 149, 1970-NMCA-118, 477 P.2d 325 (Ct. App. 1970).
- Or.—Shaw v. Moon, 117 Or. 558, 245 P. 318, 45 A.L.R. 600 (1926).
- 10 Ala.—Broom v. Douglass, 175 Ala. 268, 57 So. 860 (1912).
- 11 Wis.—Kalb v. Luce, 234 Wis. 509, 291 N.W. 841 (1940).
- 12 U.S.—McGlasker v. Calton, 397 F. Supp. 525 (M.D. Ala. 1975), *aff'd*, 524 F.2d 1230 (5th Cir. 1975).
- Cal.—Taliaferro v. Contra Costa County, 182 Cal. App. 2d 587, 6 Cal. Rptr. 231 (1st Dist. 1960).
- Wash.—Burgess v. Towne, 13 Wash. App. 954, 538 P.2d 559 (Div. 1 1975).

End of Document

© 2023 Thomson Reuters. No claim to original U.S. Government Works.